

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/622,881 Conf. No. 2745
Applicant : Sunil G. Warriar et al.
Filed : 07/18/2003
TC/A.U. : 1746
Examiner : Robert W. Hodge
Docket No.: 02-510
Cust. No. : 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Reply Brief

Dear Sir:

This brief is submitted in reply to the Examiner's Answer mailed on September 29, 2009.

In that brief, the Examiner has raised several points which are responded to below.

The initial rejection of claims 1-3, 6, 7, 9-12 and 24-26 is restated in the Answer, and the argument responsive to this rejection is in the initial Appeal Brief.

In the Response to Argument section, the Examiner construes the arguments in the Appeal Brief as arguing the references separately. The Examiner is not appreciating the point that is being made, which is that the rejection is based upon a combination of features from two references, and the references contain teachings which are sufficiently diverse that a person skilled in the art would not make such a combination. The arguments submitted are entirely commensurate in scope with the rejection.

The Examiner also states at the bottom of page 4 of the answer that "Appellants continue to argue that Gottzman is supposedly non-analogous art". The fact that the Examiner has now twice or more

times rejected the claims on the basis of this combination of art does not deprive the appellant of the opportunity to appeal that rejection. On this point, the Examiner goes on at length to discuss the same operating conditions that are experienced between the two very different types of systems disclosed in Keegan and Gottzmann. What this fails to appreciate is that the physical structures in the two patents are strikingly different from each other, and furthermore the seal which is being considered, and the mechanical forces and components between which the seal is located in Gottzman are totally different from Keegan.

These very different structures which would lead a person skilled in the art away from making the combination put forth by the Examiner. As explained in the Appeal Brief, Keegan uses a seal to seal between SOFC components which are compressed together on opposite sides of the seal to prevent flow from escaping from between two components which are fixed relative to each other.

Gottzman, on the other hand, teaches an O-ring seal which is used to provide a sliding seal between a tube and a plate through which the tube passes. The seal is not directly compressed between the components to be sealed, but rather is compressed in a transverse direction by a collar which then presses the O-ring against the tube. The mechanics of the seal in Keegan and the seal in Gottzman are so strikingly different that it is submitted that a person of skill in the art would not at all consider the two teachings to be addressing the same problem. Based upon the foregoing, it is again submitted that the combination of Keegan and Gottzman to reject claims 1 and 24 is not proper and should be reversed.

On page 5 of the Examiner's Answer, the Examiner states that the difference between Keegan and Gottzman is "form factors" and states that he is not relying on such form factors. This of course

is the problem, because the form factors of each of Keegan and Gottzman are part of the disclosures of each of these prior art patents, and they must be considered as a whole in determining whether a rejection is proper. Whether or not the Examiner is relying upon them, they are part of the disclosures and therefore must be considered. It is respectfully submitted that when they are considered, the only conclusion to be drawn is that they lead away from the combination of teachings asserted by the Examiner in the rejection on appeal.

As to claim 24, upon a careful re-reading of the rejection, it is noted that the Examiner has asserted that each of Keegan and Gottzman teaches the compression stop of claim 24, and that the Examiner did not use the words "fuel cell" in describing the teachings of Gottzman at this point of the office action. Any confusion in the wording of the argument is regretted. In the meantime, claim 24 is still submitted to be allowable based upon the argument concerning the seal.

With respect to claims 25 and 26, the Examiner states that "appellants only state that neither Keegan nor Gottzman discloses a frame, with no further argument". Appellants argument in this regard is that claim 25 calls for a frame situated between the opposed surfaces, and for the opposed surfaces to be substantially planar with the compression stop extending from the frame. The art of record does not disclose the frame.

It is submitted that this argument is fully developed. The prior art does not disclose the frame which is called for by the pending claim. Keegan does show a groove, but it is not located in a "frame situated between said opposed surfaces, wherein said frame is located adjacent one opposed surface", as recited in claim 25. Keegan shows only a groove 82 in the flow plate 80 which is the component itself that defines one of the opposed surfaces. Thus,

Keegan is structurally deficient as it relates to claim 25 because it does not show a frame in any respect.

It is believed that no other fee is due in connection with this paper. If any such fee is due, please charge same to Deposit Account 02-0184.

Respectfully submitted,
S. Warriar et al.

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